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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,401	01/30/2001	Albert D. Edgar		3067

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EXAMINER

SCHILLING, RICHARD L

ART UNIT PAPER NUMBER

1752

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/774,401

Applicant(s)

EDGAR ET AL.

Examiner

Richard L. Schilling

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9-10-01; 6-10-02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. Claims 6, 14, and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In claim 14, the term "is retarded by reducing the level of chemical sensitization" is indefinite since the level from which it is reduced is not specified. In claim 15 the term "is retarded by altering the type of chemical sensitization" is indefinite since the type from which it is altered is not specified. In claim 6 the term "is retarded by increasing the amount of less-soluble halide" is indefinite since the level from which it is increased is not specified. It appears from the specification that the level and types of chemical sensitization or amount of halide to be reduced, increased or altered is relative to the level and type of chemical sensitizing and halide composition of the faster set of silver halide grains.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a

printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under Section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16, 18 and 19 are rejected under 35 U.S.C. § 102(b) as being fully met by Uezawa et al. Uezawa et al. (see particularly column 1, line 61 - column 2, line 25; column 3, lines 8-18; column 4, lines 47-65; Examples 1 and 2) discloses color photographic films comprising red, green and blue sensitive silver halide color units containing couplers wherein each unit may contain silver halide emulsions of different speeds as separate layers or mixed together. The lower speed silver halide grains have more iodide. The emulsion layers may contain antifoggants, stabilizers, development retarders, development inhibitors and spectral sensitizing dyes. In regard to instant claim 16, the silver halide grains are not required to be

reduction sensitized.

The instant claims do not distinguish over color photographic elements with color units containing silver halide emulsions of different speeds in the same or different layers wherein sensitizing and developing altering compounds, e.g. chemical sensitizers, development retarders, sensitizing dyes, development accelerators, stabilizers, antifoggants are present in both silver halide emulsions and grain size is used for speed differences wherein the larger grains have higher speeds.

3. Claims 1, 2, 4, 6, 8-12 and 16 are rejected under 35 U.S.C. § 102(b) as being fully met by Pankow et al. Pankow et al. (see particularly column 2, lines 22-38; Example 6) disclose color photographic films with color units comprising two silver halide layers of different speeds with faster color developing couplers in the more sensitive layer.

4. Claims 1-16, 18 and 19 are rejected under 35 U.S.C. § 102(e) as being fully met by Brockler et al. or Takano et al. Brockler et al. (see particularly column 7, lines 15-35; column 17, lines 29-40; column 19, lines 4-17; the Examples) and Takano et al. (see particularly column 8, line 49 - column 9, line 20; column 12, lines 6-50; column 13, lines 10-17; column 56, lines 60-64; Example 1) disclose color photographic films for scanning comprising red, green and blue silver halide units comprising two

or three silver halide layers of different speeds. The color units also comprise silver halide emulsion layers with blends of faster and slower silver halide emulsions. The silver halide emulsions in Brockler et al. and Takano et al. comprise spectral sensitizing dyes, chemical sensitizers, development accelerators and retarders, antifoggants and development inhibitors. Takano et al. discloses reduction sensitizing stopped by oxidizing agents. As explained in paragraph 2 above, the instant claims do not distinguish over color photographic films wherein speed differences are provided by larger grains.

5. The prior art submitted by applicants has been considered. The foreign and literature references cited on the 1449 forms by applicants have either not been submitted or have been lost by the Patent Office and are not available for consideration. Copies of the cited references for consideration are requested. Buhr et al., Szajewski et al. and Irving et al. are cited of interest in the art as disclosing color photographic films for scanning comprising color units with silver halide emulsions of different speeds in the same or different layers. Matejec et al. is cited of interest in the art as disclosing color photographic films comprising color units with fast and low silver halide layers containing faster developing color couplers in one of the faster layers.

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6. Claim 17 is objected to as depending on a rejected claim but would be allowable if written in proper independent form. Applicants' specification, e.g. page 6, lines 8-18, discloses color photographic film different from the applied prior art wherein the finer or smaller silver halide grains are more sensitive and develop faster than the larger or coarser silver halide grains so that the finer grains develop before the larger grains start growing. The instant claims would be allowable if they were limited to the finer grains being more sensitive and faster developing so that they develop before the larger grains start growing due to development. The advantage of scanning the finer grains first before the larger grains block the scanning of the finer grains is not disclosed in the applied prior art.

7. Any inquiry concerning this communication should be directed to Mr. Schilling at telephone number (571) 272-1335.

RLSchilling:cdc

April 19, 2005

RICHARD L. SCHILLING  
PRIMARY EXAMINER  
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*phil*